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Memorandum

June 13, 1959

MEMORANDUM

TO: The Secretary
THROUGH: S/S
FROM: S/P - Gerard C. Smith
SUBJECT: Next Stage of Negotiations

I. The Problem

1. The issues on which we are having most difficulty with the Soviets are:
 - (a) the question of status and rights,
 - (b) the size of our forces.
2. The following summarizes my thinking on how we might deal with these issues in the next stage of negotiations, with a view:
 - (a) to exploring realistically the chances of agreement on an acceptable basis,
 - (b) to saddling the Soviets clearly with responsibility for failure of negotiations, if this should occur.

II. Status and Rights

3. Rights. There are at least three alternative ways of handling this issue which could be considered.

(a) We might propose that the Foreign Ministers agree in principle that a rights formula will avoid implicit impairment of our rights. The Soviets will not be required explicitly to reaffirm these rights. The Heads of Government will agree on specific language.

(b) We might propose that the Foreign Ministers' agreement be accompanied by a Western statement reaffirming our rights, and by pre-arranged Soviet silence.

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(c) We might propose that the Foreign Ministers agree to state that the Western presence in Berlin is "legitimate" (or "by right") and that the arrangements which the Foreign Ministers concluded on Berlin are "without prejudice to other existing agreements". Since these other agreements are based on our occupation rights, this would seem to give us some double protection, which should be adequate.

4. Status. The Soviets want at least a symbolic change in status; we cannot accept a substantive change. In an attempt to reconcile these positions, we might propose both of the following:

(a) We might suggest the appearance of change through the injection of a limited UN presence, like Spinelli's mission in Jordan. The function of the limited UN personnel would be to observe the execution of the Four Power agreement on Berlin and to be available for consultation by the Four Powers, if these Powers desired assistance in settling any dispute arising out of that execution.

(b) We might agree to suspend the right of the three Western Powers to intervene in the internal affairs of West Berlin, i.e., to veto its domestic legislation. Khrushchev spent most of the conversation of June 11 dwelling on this point. Such a step would not render our position insecure; and it would represent some ostensible diminution of the "occupied" character of Berlin.

3. Forces. Given the Western press articles and Mr. Lloyd's remarks concerning a possible Western willingness to reduce their forces, the Soviets will probably not conclude an agreement which does not include some reduction. The British will probably eventually wish to concede such a reduction.

(a) If the reduction is symbolic, e.g., to an agreed level of 10,000 men, it would not prevent Western troops from continuing to serve as a potential anti-riot force and as a symbol to sustain West Berlin confidence.

(b) The problem of troop reduction inspection could be met by assigning this function to the above-mentioned UN presence.

(c) To avoid the appearance of a unilateral concession, we should propose that the same ceiling be imposed on East German army units stationed in East Berlin.

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BERLIN

(Passage which might be included either in a final communique or in a common declaration.)

1. The Ministers of Foreign Affairs of the United States, France, the United Kingdom and the USSR have examined the question of Berlin in the desire to find mutually satisfactory solutions to the problems which have been raised and which derive essentially from the division of Berlin and of Germany. The Ministers recognize that certain arrangements at present in force could be amended in certain respects, without prejudice to the validity of the rights acquired by their respective governments as a result of the unconditional surrender of Germany.
2. The Ministers reaffirm that free and unrestricted access to Berlin by land, by water and by air shall continue to be maintained for all persons, goods and communications, including those of their forces stationed in Berlin. The procedures for such access shall be those in effect in April 1959. These procedures, however, may be carried out through German personnel, it being understood that none of the existing responsibilities are changed. The Ministers reaffirm that freedom of movement shall continue to be maintained throughout Berlin. All disputes which might arise with respect to access will be raised and settled by the Four governments.

3. The

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3. The Soviet Foreign Minister has declared the intention of the Soviet government to withdraw its forces from Berlin. The Foreign Ministers of France, the United Kingdom and the United States declare that it is the intention of their governments not to increase the combined total of the forces they now maintain in Berlin. They further declare that their governments will consider, in the light of future developments, the extent to which such forces could be reduced, consistent with their responsibilities.

4. The Ministers agree that new efforts should be made to assure respect throughout Berlin for fundamental rights and liberties. To this end they consider that measures should be taken in Berlin, consistent with such rights and liberties, to avoid activities which might disturb public order or adversely affect the rights and interests of others.

5. The undertakings contained herein will continue in force until the reunification of Germany.

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